

REMARKS

Claims 1 – 23 are pending in this application. Claims 21–23 were previously withdrawn from consideration. Claims 1-20 have been rejected by the Examiner in the Office Action mailed December 14, 2007. Claims 1 - 20 are amended.

CLAIM OBJECTIONS

The singular and plural issues identified in claims 1, 2, 3, 6, and 7 been resolved in amended claims.

The antecedent basis issues identified in claims 4, 13 and 19 have been resolved in amended claims.

Examiner states: “Claim 4 refers to ‘...products traditionally sold in pairs...’claim 5 refers to‘...product is packaged for sale in non-traditional quantities...’which appears to contradict the limitations of claim 4.” Claims 4 and 5 are amended. Claim 4 refers to “items traditionally sold in pairs.” Claim 5 now claims “items are packaged for sale in quantities other than two.” The amended claim 5 is claiming packaging the items differently than the traditional quantity which is two.” Thus there is no-contradiction but merely a further limitation.

CLAIM REJECTIONS – 35 USC 101

The rejection is moot in light of the amended claim 1.

CLAIM REJECTIONS – 35 USC 112

1. Rejection identified by the Examiner under the words “creating” and “coordinated, not-matched and their derivatives” are moot in light of amended claims 1–3.
2. Claims 1 and 8 as amended to eliminate the term “distinguishable.”
3. Examiner rejects the term “coordinated” as indefinite. The specification discloses numerous considerations to be included in creating a system to coordinate but not match features on items. The specification is amended to title the section identified as “EXAMPLE SYSTEMS FOR CREATING...” to be titled “TYPICAL SYSTEM CONSIDERATIONS...” This amended title now better reflects what is included in the

section. As disclosed the section is not an example but rather provides numerous issues and guidance for consideration when creating a coordination system as claimed.

4. The Examiner rejects the terms “traditional” and “non-traditional” as relative terms that render the claims indefinite.” Claims 5, 13 as amended to eliminate the words traditional or non-traditional. Claims 4, 19 and 20 utilize the words traditional and non-traditional solely related to the grouping of items in pairs. Additional response to this rejection is dependant upon the MPEP as follows:

MPEP 2173.02 states:

“The essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.”

And later states:

“The test for definiteness under 35 U.S.C. 112, second paragraph, is whether “those skilled in the art would understand what is claimed when the claim is read in light of the specification.” *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.* 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986).”

MPEP 2173.05(b) states:

“The fact that claim language; including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph, *Seattle Box Co., v. Industrial Crating & Packaging, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.”

Those skilled in the art fully understand what items are traditionally sold in pairs. The use of the phrase “traditionally sold in pairs” in the specification including Table 1 ensures that “those skilled in the art would understand what is claimed when the claim is read in light of the specification.” (MPEP 2173.02)

CLAIM REJECTIONS – 35 USC 102

Claims 1–6, 8, 12, 14–16 and 18–20 are rejected as anticipated by Feld et al. The Examiner cites paragraphs 54, 45, 12, 35, 32, 39, 13, 2, 8 and Figures 5, 6, 10 and 11. Feld discloses a method to select existing “articles from different vendor stations” and “tried on the virtual model.” (paragraph 0054) Feld selects features on a virtual model not features on articles (items) as is claimed in claim 1 of this application. (paragraph 0045). Figures 5, 6 and 10 of Feld disclose setting up systems: for electronic shipping of existing wear articles; for superimposing virtual 3.0 articles on virtual model; and for designing wear articles. None of these systems in Feld disclose coordinating but not matching related features on selected items or creating items based on a system created as disclosed and claimed in this application.

Cited Paragraphs 12, 35, 32, 39, 13, 2 and 8 of Feld all disclose aspects of selecting articles and viewing them on a virtual model.

Feld does not disclose selecting items to be coordinated but not matched; selecting a feature on those items; creating a system to coordinate the selected features on each item; and creating a minimum of two coordinated items based on the system all of which are claimed in claim 1 of this application.

CLAIM REJECTIONS – 35 USC 103

Claim 7 is rejected as being unpatentable over Feld. Feld discloses jewelry as one of the wear articles which can be viewed on a virtual model. As stated above, Feld does not disclose any of the elements claimed in Claim 1 in this application of which claim 7 is dependent.

Claim 13 is rejected as being unpatentable over Feld in view of Berger. Berger discloses a method for generating computer displays of custom bag design.

Claim 17 is rejected as being unpatentable over Feld in view of Marx et al. Marx discloses plastic laminated cloth containers.

Field, Berger and Marx do not alone, nor in combination disclose the elements in claim 1 (nor any other claims) of this application for a method for creating items with selected features which are coordinated but not matched in accordance with a system created to accomplish the coordination.

ADDITIONAL PRIOR ART

The Examiner has continued to identify additional prior art and forward to the Applicant after issuance of the Office Action. Applicant appreciates this effort by the Examiner and also for the time allocated in phone interviews.

Applicant does not have full access to some of the prior art which the Examiner has identified. Applicant will address the prior art as understood based on what is known to the Applicant.

Willi Smith article (April 20, 1987)

The article discusses Willi Smith being "...amongst the first to design mighty oversized clothes and mismatched wild plaids and stripes..."

Piggy Leg article in National Post (March 8, 2003)

The article does not appear to discuss/disclose any of the elements claimed by any claims in the application. It discusses issues for women to consider in relation to leg coverings and shoes.

Foot Traffic-web pages

The web pages disclose toe socks of many different designs and does allow for purchasing them in non-traditional quantities.

Foot traffic does disclose sales of socks in non-traditional quantities, but none of the other elements claimed by this application. The Willi-Smith article mentions mismatching of plaids and stripes but no mention of any of the elements

for creating these articles under a method to coordinate selected features on each item without matching.

None of the additional prior art discloses the elements claimed in this application for a method of creating items with selected features which are coordinated but not matched in accordance with a system created to accomplish the coordination.

Applicant believes that application is now in condition for allowance and timely allowance is respectfully requested. If examiner has any additional issues which might be addressed in additional phone conversation(s) please call me.

Respectfully submitted
for Applicant,

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